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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION FOUR

THE PEOPLE,

Plaintiff and Respondent,

v.

STEVEN DECOLLIBUS,

Defendant and Appellant.

B222934

(Los Angeles County  
Super. Ct. No. BA341529)

APPEAL from a judgment of the Superior Court of Los Angeles County,  
Dennis J. Landin, Judge. Dismissed.

Suzan E. Hier, under appointment by the Court of Appeal, for Defendant and  
Appellant.

No appearance for Plaintiff and Respondent.

Steven Decolibus appeals from the judgment entered following his no contest plea to one count of second degree robbery, in violation of Penal Code section 211. Because appellant failed to obtain a certificate of probable cause, we dismiss the appeal.

In March 2008, appellant was found sitting in John Newman's car in a parking garage. Newman opened the car door and told appellant to get out of the car. Appellant got out of the car, but, after Newman got in and started to close the door, appellant threatened to shoot him. Appellant ran away, and Newman went to the security office. Appellant took a shopping bag, jacket, cell phone, sunglasses, and navigation system from Newman's car. Newman subsequently received an email from the security guard of the parking garage with a photo of appellant, asking Newman if appellant was the person in his car, and he later identified appellant in a police photo lineup.

Appellant was charged by information with second degree burglary of a vehicle (Pen. Code, § 459), grand theft of personal property (Pen. Code, § 487, subd. (a)), and second degree robbery (Pen. Code, § 211). In February 2009, appellant agreed to plead no contest to the robbery count in exchange for a two-year state prison term. After being advised of and waiving his rights, appellant entered a no contest plea. The trial court found a factual basis for the plea and accepted the plea, and the other two counts were dismissed.

The trial court asked appellant if he wished to speak before he was sentenced, and appellant stated that he had been assaulted by a deputy, leading to injuries. The court then sentenced appellant to the low term of two years and gave appellant credit for 266 actual custody days and 39 good time/work time days, for a total of 305 days. The court ordered appellant to provide a DNA sample and fingerprint impressions, imposed various fines and fees, ordered victim restitution, and scheduled a restitution hearing.

Appellant filed a notice of appeal and a request for a certificate of probable cause, asserting that he entered his plea under duress because incidents of brutality by various deputies had caused him to fear for his safety if he remained in county jail. The trial court denied appellant's request.

In May 2010, appellant filed a motion to augment the record with the reporter's transcript of a February 2009 restitution hearing; we granted the motion. After review of the record, appellant's court-appointed counsel filed an opening brief requesting this court to independently review the record pursuant to the holding of *People v. Wende* (1979) 25 Cal.3d 436, 441.

On July 29, 2010, we advised appellant that he had 30 days within which to personally submit any contentions or issues which he wished us to consider. No response has been received to date.

A certificate of probable cause is required for an appeal challenging the validity of a plea. (*People v. Brown* (2010) 181 Cal.App.4th 356, 359.) Because appellant failed to obtain a certificate of probable cause, he is precluded from challenging the validity of his plea and from challenging the validity of his sentence, which was part of his negotiated plea. (*People v. Panizzon* (1996) 13 Cal.4th 68, 76-78.) The appropriate remedy accordingly is to dismiss the appeal. (Pen. Code, § 1237.5; *People v. Mendez* (1999) 19 Cal.4th 1084, 1099 [explaining that the appellate court "may not proceed to the merits of the appeal, but must order dismissal thereof" where the defendant has not obtained a certificate of probable cause].)

We have examined the entire record and are satisfied that no arguable issues exist, and that appellant has, by virtue of counsel's compliance with the *Wende* procedure and our review of the record, received adequate and effective appellate review of the judgment entered against him in this case. (*Smith v. Robbins* (2000) 528 U.S. 259, 278; *People v. Kelly* (2006) 40 Cal.4th 106, 112-113.)

**DISPOSITION**

The appeal is dismissed.

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WILLHITE, Acting P.J.

We concur:

MANELLA, J.

SUZUKAWA, J.